

HOUSE BILL No. 6097

December 1, 2016, Introduced by Rep. Lyons and referred to the Committee on Elections.

A bill to amend 1954 PA 116, entitled
"Michigan election law,"
by amending sections 867 and 881 (MCL 168.867 and 168.881), as
amended by 2014 PA 406.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 867. (1) A candidate or elector filing a recount petition
2 pursuant to section 862 or 863 shall file the recount petition with
3 the clerk of the appropriate board of county canvassers. Except as
4 otherwise provided in this section, at the time of filing the
5 recount petition, the petitioner shall deposit with the clerk the
6 sum of \$25.00 for each precinct referred to in his or her recount
7 petition.

8 (2) IF 1 CANDIDATE IS TO BE ELECTED TO THE OFFICE AND THE
9 OFFICIAL CANVASS OF VOTES SHOWS THAT THE PERCENTAGE DIFFERENTIAL
10 SEPARATING THE WINNING CANDIDATE AND THE PETITIONER IS MORE THAN

1 5.0% OF THE TOTAL NUMBER OF VOTES CAST IN THE RACE, THE PETITIONER
2 SHALL DEPOSIT WITH THE CLERK 100% OF THE ESTIMATED COST OF THE
3 RECOUNT FOR EACH PRECINCT REFERRED TO IN HIS OR HER PETITION. FOR
4 PURPOSES OF THIS SUBSECTION, THE WINNING CANDIDATE IN A PRIMARY FOR
5 A NONPARTISAN OFFICE WHERE ONLY 1 CANDIDATE WILL BE ELECTED MEANS
6 THE CANDIDATE NOMINATED WITH THE LESSER NUMBER OF VOTES.

7 (3) ~~(2)~~—If 1 candidate is to be elected to the office and the
8 official canvass of votes shows that the number of votes separating
9 the winning candidate and the petitioner is more than 50 votes or
10 0.5% of the total number of votes cast in the race, whichever is
11 greater, the petitioner shall deposit with the clerk the sum of
12 \$125.00 for each precinct referred to in his or her petition. For
13 purposes of this subsection, the winning candidate in a primary for
14 a nonpartisan office where only 1 candidate will be elected means
15 the candidate nominated with the lesser number of votes.

16 (4) ~~(3)~~—If more than 1 candidate is to be elected to the
17 office and the official canvass of votes shows that the number of
18 votes separating the winning candidate who received the least
19 number of votes and the petitioner is more than 50 votes or 0.5% of
20 the sum of the number of votes received by the 2 candidates,
21 whichever is greater, the petitioner shall deposit with the clerk
22 the sum of \$125.00 for each precinct referred to in his or her
23 petition.

24 (5) ~~(4)~~—If the vote is on a proposal and the official canvass
25 of votes shows that the number of votes separating the "yes" votes
26 and the "no" votes is more than 50 votes or 0.5% of the total
27 number of votes cast on the proposal, whichever is greater, the

1 petitioner shall deposit with the clerk the sum of \$125.00 for each
2 precinct referred to in his or her petition.

3 (6) ~~(5)~~—If, by reason of the recount, the petitioner
4 establishes sufficient fraud or mistake as set forth in his or her
5 recount petition to change the result of the election and receives
6 a certificate of election or establishes sufficient fraud or
7 mistake to change the result upon an amendment or proposition, the
8 votes for and against which were recounted, the clerk of the board
9 of county canvassers shall refund the money deposited to the
10 petitioner.

11 (7) ~~(6)~~—If a refund is not made as required under subsection
12 ~~(5)~~, ~~(6)~~, the sum deposited shall ~~shall~~ **MUST** be paid by the clerk of the
13 board of county canvassers to the treasurer of the county.

14 (8) ~~(7)~~—If a precinct referred to in the petition is
15 determined "not recountable" as provided in section 871(3) or,
16 subject to subsection ~~(8)~~, ~~(9)~~, if a precinct referred to in the
17 petition is not recounted due to the withdrawal of the petition,
18 the money deposited for the recount of that precinct shall ~~shall~~ **MUST** be
19 refunded to the petitioner.

20 (9) ~~(8)~~—If the votes cast on the ballots voted in a precinct
21 have been examined and recounted, the withdrawal of the petition
22 shall not result in a refund of the money deposited for the recount
23 of that precinct.

24 Sec. 881. (1) A person filing a recount petition pursuant to
25 section 879 or 880 shall file the petition with the state bureau of
26 elections. Except as otherwise provided in this section, at the
27 time of filing the petition, the petitioner shall deposit the sum

1 of \$25.00 for each precinct in which a recount of the votes is
2 demanded in cash or by check or other negotiable instrument made
3 payable to the state of Michigan.

4 **(2) IF 1 CANDIDATE IS TO BE ELECTED TO THE OFFICE AND THE**
5 **OFFICIAL CANVASS OF VOTES SHOWS THAT THE PERCENTAGE DIFFERENTIAL**
6 **SEPARATING THE WINNING CANDIDATE AND THE PETITIONER IS MORE THAN**
7 **5.0% OF THE TOTAL NUMBER OF VOTES CAST IN THE RACE, THE PETITIONER**
8 **SHALL DEPOSIT WITH THE STATE BUREAU OF ELECTIONS 100% OF THE**
9 **ESTIMATED COST OF THE RECOUNT FOR EACH PRECINCT REFERRED TO IN HIS**
10 **OR HER PETITION. FOR PURPOSES OF THIS SUBSECTION, THE WINNING**
11 **CANDIDATE IN A PRIMARY FOR A NONPARTISAN OFFICE WHERE ONLY 1**
12 **CANDIDATE WILL BE ELECTED MEANS THE CANDIDATE NOMINATED WITH THE**
13 **LESSER NUMBER OF VOTES.**

14 **(3) ~~(2)~~**—If 1 candidate is to be elected to the office and the
15 official canvass of votes shows that the number of votes separating
16 the winning candidate and the petitioner is more than 50 votes or
17 0.5% of the total number of votes cast in the race, whichever is
18 greater, the petitioner shall deposit with the state bureau of
19 elections the sum of \$125.00 for each precinct referred to in his
20 or her petition. For purposes of this subsection, the winning
21 candidate in a primary for a nonpartisan office where only 1
22 candidate will be elected means the candidate nominated with the
23 lesser number of votes.

24 **(4) ~~(3)~~**—If more than 1 candidate is to be elected to the
25 office and the official canvass of votes shows that the number of
26 votes separating the winning candidate who received the least
27 number of votes and the petitioner is more than 50 votes or 0.5% of

1 the sum of the number of votes received by the 2 candidates,
2 whichever is greater, the petitioner shall deposit with the state
3 bureau of elections the sum of \$125.00 for each precinct referred
4 to in his or her petition.

5 (5) ~~(4)~~—If the vote is on a proposal and the official canvass
6 of votes shows that the number of votes separating the "yes" votes
7 and the "no" votes is more than 50 votes or 0.5% of the total
8 number of votes cast on the proposal, whichever is greater, the
9 petitioner shall deposit with the state bureau of elections the sum
10 of \$125.00 for each precinct referred to in his or her petition.

11 (6) ~~(5)~~—If, by reason of the recount, the petitioner
12 establishes fraud or mistake as set forth in his or her petition
13 and receives a certificate of election or establishes sufficient
14 fraud or mistake to change the result upon an amendment or
15 proposition, the votes for and against which were recounted, the
16 state bureau of elections shall refund the money deposited to the
17 petitioner. The secretary of state shall refund the money deposited
18 to a petitioner who is a chairperson of a state political party if
19 the results of the race for which a recount was petitioned for
20 under section 879 are changed. If a refund is not made as required
21 by this section, then the secretary of state shall pay to the
22 treasurer of each county its proportionate share of the deposit
23 based upon the number of precincts in the county in which the votes
24 were recounted.

25 (7) ~~(6)~~—If a precinct referred to in the petition is
26 determined "not recountable" as provided in section 871(3) or,
27 subject to subsection ~~(7)~~, ~~(8)~~, if a precinct referred to in the

1 petition is not recounted due to the withdrawal of the petition,
2 the money deposited for the recount of that precinct ~~shall~~**MUST** be
3 refunded to the petitioner.

4 **(8)** ~~(7)~~—If the votes cast on the ballots voted in a precinct
5 have been examined and recounted, the withdrawal of the petition
6 shall not result in a refund of the money deposited for the recount
7 of that precinct.

8 Enacting section 1. This amendatory act is retroactive and
9 effective January 1, 2016.